

UNITED STATES DISTRICT COURT
DISTRICT OF NEW HAMPSHIRE

UNITED STATES OF AMERICA

v.

DANIEL MUSSO

#1:16-cr-00033-JD

**MOTION TO DISMISS OR IN THE ALTERNATIVE TO EXCLUDE AND
SUPPRESS ALL EVIDENCE OF ALLEGED GRENADES AND
COMPOSITION B EXPLOSIVES DUE TO GOVERNMENT AGENTS'
ILLEGAL ACTIVITY AMOUNTING TO OUTRAGEOUS MISCONDUCT
REASONABLY PRESUMED IN THE ABSENCE OF EVIDENCE OF
COMPLIANCE WITH MULTIPLE LAWS AND REGULATIONS**

Now comes the accused, by and through counsel, and respectfully requests that the Honorable Court dismiss this matter with prejudice and in support thereof has respectfully contemporaneously submitted a Memorandum in Support of this Motion. As grounds for and in support of this motion, the following is stated:

1. The initial document claiming that the evidence in this matter was in the possession of Mr. Musso at the time of his arrest at 11:55 am on January 27, 2016 –according to F.B.I. Special Agent Mr. Brian LeBlanc on form (Chain of Custody FD-1004 Rev. 6-22-2016) is suspect.
2. The form Mr. LeBlanc used had a Rev. date approximately six months after Mr. Musso's arrest yet was purportedly signed and dated by Mr. LeBlanc on 1-27-2016, the date of Mr. Musso's arrest when Brian LeBlanc collected the "evidence" against Mr. Musso.

3. Counsel has been unable to find any evidence of early release of this dated form.
4. During his Interrogation, Mr. Musso was asked to provide consent to the F.B.I to search his home, business, out building and other buildings on his properties as well as his vehicles and consent to search his laptop, cell phone and other electronics (the Government has represented that it did not search, nor copy the electronics or phone).
5. Mr. Musso provide five separate written consent to search via a Form FD-395 shortly after his arrest at approximately 12:27 pm on January 27, 2017 for his vehicle, residence business, cellular phone and laptop computer. These written consents included “I authorize these agents to take any items which they determine may be related to their investigation.” Despite hundreds of photos and countless person-hours scouring Mr. Musso’s vehicle, residence, business, cellular phone and laptop computer, nothing that is alleged to have bene illegal was discovered and no charges have been brought against Mr. Musso because of those extensive searches.
6. Mr. Musso provided passwords for all of the above including for e-mail and voicemail¹ as well as his keys to these buildings. Mr. Musso even “authorized these agents to take any items which they determine may be related to their

¹ January 27, 2016 Interrogation of Mr. Musso P 124 L16-17, P124 L 1-5.

investigation.”² Mr. Musso even gave the FBI the combination to his safe so the FBI could search that as well.³

WHEREFORE, Daniel Musso, the defendant requests the Court to:

- A. Grant this Motion;
- B. If this Honorable Court is not inclined to grant this Motion on the papers, allow a hearing in this matter; and
- C. For such other relief as is fair and just.

Dated at Concord, New Hampshire this 22st day of January, 2018

/s/ Penny Dean
Penny Dean, Esq.
Attorney for Daniel Musso
59 Warren Street
Concord, NH 03301-3951
603-230-9999
Bar no. 13838

FEDERAL CERTIFICATE OF SERVICE

I hereby certify that on this day I electronically filed Defendant Daniel Musso’s MOTION with the Clerk of the court using the ECF system, which should send notification of such filing to the following:

Mark Zuckerman, Esq.
U.S. Attorney’s Office
55 Pleasant Street

² January 27, 2016 Interrogation of Mr. Musso PP. 90, 91, L 21-13, 92, 119, 120.

³ January 27, 2016 Interrogation of Mr. Musso P. 121 L1-4.

Concord, NH 03301

John Davis, Esq.
U.S. Attorney's Office
55 Pleasant Street
Concord, NH 03301

Matthew Hunter, Esq.
U.S. Attorney's Office
55 Pleasant Street
Concord, NH 03301

Dated at Concord, New Hampshire this 22th day of January, 2018

/s/ Penny Dean
Penny Dean, Esq.
Attorney for Daniel Musso
59 Warren Street
Concord, NH 03301-3951
603-230-9999
Bar no. 13838

Counsel will mail a copy to Mr. Musso per her usual practice